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IBM CORPORATION 3039 CORNWALLIS RD. DEPT. T81 / B503, PO BOX 12195 REASEARCH TRIANGLE PARK, NC 27709			STEVENS, THOMAS H	
			ART UNIT	PAPER NUMBER
			2123	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/938,966	Applicant(s) AUPPERLE ET AL.	
	Examiner Thomas H. Stevens	Art Unit 2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-15, 17-25, 27-32, 35, 36 and 38-42 is/are rejected.
- 7) ☒ Claim(s) 6, 16, 26, 33, 34 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-42 were examined.
2. Claims 1-5, 7-15, 17-25, 27-32, 35, 36, 38-42 are rejected.
3. Claims 6, 16, 26, 33, 34 and 37 are objected.

Section I: Prosecution Reopened

4. In response to applicants' request for a pre-appeal brief conference, a pre-appeal brief conference was held on 12/23/2005. The discussion of the case prompted withdrawing the finality of the previous office action, thus reopening prosecution.

Section II: Non-Final Office Action

Claim Rejections - 35 USC § 103

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-5,7-15, 17-20,31-33, 40, 41 are rejected under 35 U.S.C. 103 (a) as obvious by Brutzman et al., "Internetwork Infrastructure Requirements for Virtual Environments" (hereafter Brutzman), in view of Camut et al. (US Patent 6,684,257) (hereafter Camut). Camut and Brutzman are analogous art because they both teach Internet protocols.

Therefore at the time of invention, it would have been obvious to one having ordinary skill in the art at the time of invention was made to utilize the functional characteristic of Brutzman in the program product web testing of Camut because Camut teaches an efficient, cost effective, way of more thoroughly testing web content tailoring for multiple pervasive computing devices without requiring the actual pervasive computing devices (Camut: column 8, lines 32-36).

Claim 1. A computer implemented method of identifying web sites comprising: (Camut: column 5, lines 47-49; abstract: line 2); identifying at least one functional characteristic to be tested (Brutzman: pg. 95, right column, 3rd paragraph); retrieving content for a web site (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20); testing the content of the web site (Camut: abstract) for the presence of the at least one functional characteristic (Brutzman: pg. 95, right column 3rd paragraph); and storing (Camut: column 5, lines 36-37) results of the testing of the content of the web site (Camut: column 3, lines 43-45).

Claim 2. The computer implemented method of claim 1, wherein the at least one functional characteristic identifies a functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) of web sites that requires a function to be enabled by a client device (accessing the web site via turning on the computer) in order to output the web site content (results of a search report from Google or Yahoo) on the client device.

Claim 3. The computer implemented method of claim 1 further comprising: disabling, in a web browser, the at least one functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) prior to retrieving the content for the web site (results of a search report from Google or Yahoo).

Claim 4. The computer implemented method of claim 3, wherein testing the content of the web site for the presence of the at least one functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) comprises determining if a portion of the content is not output (search query produces little or no results) by the web browser due to the at least one functional characteristic.

Claim 5. The computer implemented method of claim 1, wherein storing the results of the testing comprises generating an entry in a web site (search query for example Google, Yahoo etc.) functional characteristics (Brutzman: pg. 95, right column, 3rd paragraph) database on the results of the testing.

Claim 7. A computer implemented method of claim 1, wherein retrieving content for the web site comprises generating a list of web sites to be tested (inherent; a list is created if a plurality of sites are listed), and selected a next web site in a list of web sites to be tested.

Claim 8. A computer implemented method of claim 7, wherein identifying at least one functional characteristic to be tested comprises generating a list (inherent; a list is created if a plurality of sites are listed) of functional characteristic in the list of functional characteristics (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20) to be tested.

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Claim 9. A computer implemented method of claim 8, wherein testing the content of the web site for the presence of the at least one functional characteristic comprises for each web site in the list of web site (inherent; a list is created if a plurality of sites are listed), testing each functional characteristic (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20) in the list of functional characteristics.

Claim 10. The computer implemented method of claim 5, further comprising: receiving a search request (same event as a Internet search) including a designation of one of more web site functional characteristics; searching the web site functional characteristics database (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20) based on the search request; and returning results of searching the web site functional characteristics database to thereby zero or more web sites having or not having the designated one (the result of no hits: inherent to the genre of web surfing) or more web site functional characteristics.

Claim 11. A computer program product, comprising: computer usable program code (Camut: column 12, lines 45-48) for identifying at least one functional characteristic (Brutzman: pg. 95, right column 3rd paragraph) to be tested; computer usable program code for retrieving content for a web site (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20); computer usable program code for testing the content (Camut: column 3, lines 43-45) of the web site for the presence of the at least one functional characteristic (Brutzman: pg. 95, right column 3rd paragraph); and computer usable

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program code (Camut: column 12, lines 45-48) for storing (Camut: column 5, lines 36-37) the results of the testing of the content of the web site (Camut: column 3, lines 43-45).

Claim 12. The computer program product of claim 11, wherein the at least one functional characteristic (Brutzman: pg. 95, right column 3rd paragraph) identifies a functional characteristic of web sites that requires a function to be enabled a client (client access the web via computer) device in order to output the web site content on the client device (results of a search report from Google or Yahoo).

Claim 13. The computer program product of claim 11 further comprising: computer usable program code for disabling (turn the power off of the computer or work off-line) , in a web browser, the at least one functional characteristic(Brutzman: pg. 95, right column, 3rd paragraph) prior to retrieving the content for the web site (results of a search report from Google or Yahoo).

Claim 14. The compute program product of claim 13, wherein the computer usable program code for testing the content of the web site for the presence of the at least one functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) comprises computer usable program code for determining if a portion of the content is not output by (search query produces little or no results) the web browser due to the at least one functional characteristic being disabled (working off-line).

Claim 15. The computer program product of claim 11, wherein the computer usable program code (Camut: column 12, lines 45-48) for storing the results of the testing comprises computer usable program code for generating an entry in a web site (search query for example Google, Yahoo etc.) functional characteristics database tics (Brutzman: pg. 95, right column, 3rd paragraph) based on the results of the testing.

Claim 17. The computer program product of claim 11, wherein the computer usable program code for retrieving content for the web site (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20) comprises computer usable program code for generating a list of web sites (inherent; a list is created if a plurality of sites are listed) to be tested, and computer usable program code for selecting a next web site in the list of web sites to be tested.

Claim 18. The computer program product of claim 17, wherein the computer usable program code (Camut: column 12, lines 45-48) for identifying at least one functional characteristic to be tested comprises computer usable program code for generating a list of functional characteristics (Brutzman: pg. 95, right column 3rd paragraph) to be tested, and computer usable program code for selecting a next functional characteristic (if there's a plurality of characteristics, then there would be a next one: inherent) to be tested.

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Claim 19. The computer program product of claim 17, wherein the computer usable program code (Camut: column 12, lines 45-48) for testing the content of the web site for the presence of the at least one functional characteristic (Brutzman: pg. 95, right column 3rd paragraph) comprises computer usable program code for testing each functional characteristic in the list of functional characteristics (Brutzman: pg. 95, right column 3rd paragraph) for each web site in the list of web sites (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20).

Claim 20. The computer program product of claim 15, further comprising: for receiving a search request including a designation of one or more web site functional characteristics; for searching the web site functional characteristics (Brutzman: pg. 95, right column, 3rd paragraph) database on the search request (any well known search engine: Google, Yahoo, Ask Jeeves, etc.); and computer usable program code for returning results of searching the web site functional characteristics database to thereby identify zero or more web sites having or not having the designated one (the result of no hits: inherent to the genre of web surfing) or more web site functional characteristics.

Claim 31. A computer implemented method of identifying web sites, comprising: receiving a search request (same event as a Internet search) including a designation of one or more web site functional characteristics; searching a web site functional characteristics database (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20) based on the search request; and returning results of searching the web site functional

characteristics database to thereby identify zero or more web sites having or not having the designated one (the result of no hits: inherent to the genre of web surfing) or more web site functional characteristics.

Claim 32 A computer implemented method of claim 31, wherein the one or more web site functional characteristics identify functions that are enabled on a client device web browser in order to output the web site content on the client device (results of a search report from Google or Yahoo).

Claim 33. A computer implemented method of claim 31, further comprising: changing a fee to an account source of the search request for searching (results of a search report from Google or Yahoo) the web site functional characteristics database (Brutzman: pg. 95, right column 3rd paragraph) on the search request.

Claim 40. The computer program product of claim 11, wherein the computer usable program code (Camut: column 12, lines 45-48) for storing the results of the testing of the content of the web site comprises computer usable program code for storing the results of the testing in a network attached storages unit (servers, well-known with the art).

Claim 41. The computer program product of claim 17, wherein the computer usable program code (Camut: column 12, lines 45-48) for storing the results of the testing of the content of the web site comprises computer usable program code for storing the

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results of the testing in a network attached storage unit (equivalent to a server: well-known).

8. Claims 21-25, 27-30 and 42 are rejected under 35 U.S.C. 103 (a) as obvious by Brutzman "Internetwork Infrastructure Requirements for Virtual Environments" (hereafter Brutzman), in view of Pabari et al. (US Patent 6,928,471) (hereafter Pabari). Pabari and Brutzman are analogous art because they both teach Internet protocols.

Therefore at the time of invention, it would have been obvious to one having ordinary skill in the art at the time of invention was made to utilize the functional characteristic of Brutzman in the network and database interfacing of Pabari because Pabari teaches the Infrastructure Performance Management ("IPM") market, which consists of products that help information technology operators manage the infrastructure of their network based applications, products, and services. Additionally, these products help customers to gauge the performance of the network and assist in troubleshooting when problems arise. The IPM market products typically address the main aspects of the e-Business infrastructure, such as the networks (LAN and WAN), network devices (switches, routers, firewalls, & bridges), servers, applications, and databases. These products also address the main parameters of Service Level Management ("SLM"), which are availability, performance, accuracy, and security (Pabari: column 1, lines 49-62).

Claim 21. An apparatus for identifying web sites, comprising: a network interface (Pabari: column 25, line 49); database interface (" a database via an interface" Pabari: column 14, lines 31-34); and a web site content analysis engine (Pabari: column 1, line 64) coupled to the network interface and the database interface, wherein the web site content analysis engine identifies at least one functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) to be tested, retrieves content for a web site (Brutzman: pg. 97, "World Wide Web" paragraph, lines 19-20) via the network interface, tests the content of the web site for the presence of the at least one functional characteristic, and stores the results of the testing of the content of the web site via the database interface ("a database via an interface" Pabari: column 14, lines 31-34).

Claim 22. The apparatus of claim 21, wherein the at least one functional characteristic identifies a functional characteristic of web sites that require a function to enable by a client device in order to output the web site content on the client device (client sever equivalent a client device; Brutzman: pg. 97, left column, 2nd paragraph, lines 19-20).

Claim 23. The apparatus of claim 21, wherein the web site content analysis engines disables ("offline" well-known), in a browser, the at least one functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) prior to retrieving the content for the web site (any well know search engine: Google, Yahoo, Ask Jeeves, etc.).

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Claim 24. The apparatus of claim 23, wherein the web site content analysis engine test the content of the web site for the presence of the at least one functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) by determining if a portion of the content is not output by the web browser due to the at least one functional characteristic being disabled (work off-line or cut power).

Claim 25. The apparatus of claim 21, wherein the web site content analysis engine stores the results the testing by generating an entry (inherent: initiating a search by way of the search entry box located in every search engine) in a web site functional characteristics (Brutzman: pg. 95, right column, 3rd paragraph) database based on the results of the testing".

Claim 27. The apparatus of claim 21, wherein the web site content analysis engine retrieves content for the web site by generating a list of web sites (inherent; a list is created if a plurality of sites are listed) to be tested, and selecting a next web sites in the list of web sites to be tested (inherent evaluation of a list of data).

Claim 28. The apparatus of claim 21, wherein the web site content analysis engine identifies at least one functional characteristic (Brutzman: pg. 95, right column 3rd paragraph) to be tested by generating a list of functional characteristics (Brutzman: pg. 95, right column 3rd paragraph) to be tested, and selecting a next functional

characteristic in the list of functional characteristics to be tested (inherent evaluation of a list of data).

Claim 29. The apparatus of claim 21, wherein the web site content analysis engine tests the content of the web site for the presence of the at least one functional characteristic by, for each web site in the list of web site, testing each functional characteristic in the list of functional characteristics (Brutzman: pg. 95, right column 3rd paragraph) .

Claim 30. The apparatus of claim 25, further comprising: a search engine coupled to a search results interface generation device, (any well known search engine: Google, Yahoo, Ask Jeeves, etc.) wherein the search engine receives a search request including a designation of one or more web site functional characteristics, (Brutzman: pg. 95, right column, 3rd paragraph) search the web site functional characteristics database based on the search request, (any well known search engine: Google, Yahoo, Ask Jeeves, etc.) and returns of searching the web site functional characteristic database to thereby identify zero or more web sites having or not having the designated one or more web site functional characteristics (the result of no hits: inherent to the genre of web surfing).

Claim 42. The apparatus of claim 21, wherein the web site content analysis engine stores the results of the testing of the web site in a database stored (" a database via an interface" Pabari: column 14, lines 31-34) on a network attached storage unit (server)

9. Claims 35, 36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being obvious by Brutzman "Internetwork Infrastructure Requirements for Virtual Environments" in view of Welter et al., (U.S. Patent 6,631,408 (2003)) (hereafter Welter). Brutzman and Welter are analogous art because they both teach Internet protocols.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to utilize the functional characteristics of Brutzman in the testing web sites of Welter because Welter teaches an advantage of the present invention is that a web site can be thoroughly tested in a variety of interactive modes. Also, the present invention allows for the testing of changeable or "dynamic" features of the web site. In consequence, the present invention facilitates the thorough testing of web sites for errors and generates reports, which aids in the correction of the detected errors. Other advantages include the capability of immediately providing a notification of any problems, and the reporting of performance and service levels (Welter: column 3, lines 11-20).

Claim 35. A data structure having entries corresponding to web sites for use by a computing device to identify web sites (Welter: column 3, lines 1-25) based on functional characteristics, each entry comprising: web site identifier field for identifying a web site (Welter: column 6, lines 59-65); and one or more functional characteristic (Brutzman: pg. 95, right column, 3rd paragraph) fields for identifying functional

characteristics of the web site identified in the web site identifier field (Welter: column 7, lines 9-18 with figure 5).

Claim 36. The data structure of claim 35, wherein the functional characteristics (Brutzman: pg. 95, right column, 3rd paragraph) identify functions that are enabled on a client device (Welter: column 1, lines 40-51 with figure 1) web browser in order to output the web site content on the client device.

Claim 38. The data structure of claim 35, wherein the data structure (data within a database is structured; Welter: column 8, lines 10-11) is stored on a computer usable medium (Welter: column 10, lines 18-19 "most computers are usable).

Claim 39. The data structure claim 38, wherein the computer (Welter: column 10, lines 18-19 "most computers are usable) usable medium is part of a network (Welter: column 1, lines 13-15) attached storage unit (equivalence between storage unit and database; Welter: column 3, line 8).

Allowable Subject Matter

10. Claims 6, 16, 26, 33, 34 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is an examiner's statement of reasons for allowance:

While Brutzman "Internetwork Infrastructure Requirements for Virtual Environments" (claims 1, 11, 21, 31 and 35) teaches functional characteristics; US Patent 6,684,257 (claim 1) teaches a computer implemented method of identifying web sites comprising: testing the content of the web site and storing results of the testing of the content of the web site; (claim 11) a computer program product, comprising: computer usable program code computer usable program code for testing the content of the web site for the presence of the at least one and computer usable program code for storing the results of the testing of the content of the web site; US Patent 6,928,471 (claim 21) teaches an apparatus for identifying web sites, comprising: a network interface database interface; and a web site content analysis engine coupled to the network interface and the database interface, wherein the web site content analysis engine identifies at least one via the network interface, tests the content of the web site for the presence of the at least one functional characteristic, and stores the results of the testing of the content of the web site via the database interface; US Patent 6,594,692 (claim 31) teaches method of identifying web sites, comprising: receiving a search request including a designation of one or more web site; searching a web site functional characteristics database based on the search request; and returning results of searching the web site database to thereby, none of these references, taken either alone or in combination, with the prior art of record disclose

(claims 6, 16, 26, 34 and 37) "displaying digital movies"

(claim 33) "charging a fee to an account of source of the search request"

in combination with the remaining elements and features of the claimed invention. It is for these reasons that the applicants' invention defines over the prior art of record.

Correspondence Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715, Monday-Friday (8:00 am- 4:30 pm EST).

If attempts to reach the examiner by telephone are unsuccessful, please contact examiner's supervisor Mr. Paul Rodriguez 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Answers to questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) (toll-free (866-217-9197)).

March 1, 2006

TS


Paul L. Rodriguez 3/6/06
Primary Examiner
Art Unit 2125